

REMARKS

Claims 22-45 are active. The Applicants thank Examiner Meah for indicating allowable subject matter in prior claims 10, 12, and 14-19. The claims have been systematically revised to address the remaining rejections. Claims 22-33 refer to isolated *Escherichia coli* in which the *dadA* gene has been modified and does not express a functional D-amino acid oxidase. Claims 34-45 refer to isolated *Escherichia coli* in which both the *dsdA* gene and *dsdD* genes have been modified and do not express the corresponding D-amino acid oxidase or D-serine dehydratase.

The claims find support as follows: Claims 22 and 34 (claim 1, page 8, line 17), Claims 23 and 35 (page 8, lines 30 *ff.*), Claims 24 and 36 (Fig. 2), Claims 25 and 37 (page 8, lines 25 *ff.*), Claims 26 and 38 (claims 4 and 5), Claims 27-33 and Claims 39-45 (claims 6 and 7, pages 8-10, Fig. 2). Accordingly, the Applicants do not believe that any new matter has been added. Favorable consideration of this amendment and allowance of this application is now respectfully requested.

The Applicants thank Examiner Meah and Prouty for the courteous and helpful interview of May 15, 2007. Amendments that would address the rejections were discussed. It was suggested that the claims indicate that the recited microorganisms do not express active forms of the genes ordinarily expressed by *dadA* and *dsdA* and that with regard to specific deposited strains that the Applicants perfect their deposits.

Restriction/Election

The Applicants previously elected with traverse, Group I, Claims 1-5, directed to products (microorganisms). The Applicants thank Examiner Meah for rejoining the method claims of Group II.

Rejection—35 U.S.C. §112, second paragraph

Claims 10-21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is moot in view of the cancellation of these claims. The new claims do not employ the terms mentioned in the rejection and adopt the language discussed in the recent interview.

Rejection—35 U.S.C. §112, first paragraph

Claims 10, 12 and 14-19 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate description. This rejection is also moot in view of the cancellation of the prior claims and would not apply to the new claims.

Rejection—35 U.S.C. §112, first paragraph

Claims 10, 12 and 14-19 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate enablement. This ground of rejection is moot in view of the perfection of the biological deposit requirement below or in view of the revised claim language.

Statement Regarding Deposit

The microorganisms identify by DSM 15181 and DSM 15182 were deposited under the terms of the Budapest Treaty. As required by 37 C.F.R. 1.808, subject to the one exception permitted by 37 C.F.R. 1.808(b), all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon granting of the patent. See MPEP 2410.01.

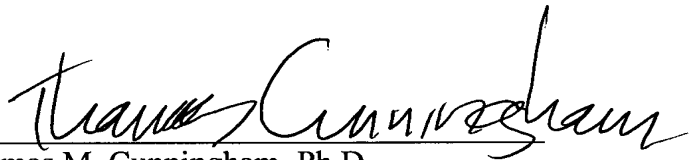
Conclusion

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon

A handwritten signature in black ink, appearing to read "Thomas M. Cunningham", written over a horizontal line.

Thomas M. Cunningham, Ph.D.
Registration No. 45,394

Customer Number
22850

Fax: (703) 413 -2220
(OSMMN 08/03)